STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES RONALD NEAL, JR.,

Defendant-Appellant.

UNPUBLISHED
April 19, 2002

No. 228550
Cass Circuit Court
LC No. 00-010151-FH

Before: K.F. Kelly, P.J., and Doctoroff and Cavanagh, JJ.

PER CURIAM.

Defendant appeals as of right his conviction of breaking and entering with intent to commit larceny, MCL 750.110, entered after a jury trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was charged in connection with a break-in at a bar. The evidence showed that after 11:00 p.m. on January 13, 2000, someone broke into the bar and stole several cases of beer, including three cases of Heineken. The owner testified that his was the only establishment in town that sold Heineken by the case. Between 2:00 a.m. and 3:00 a.m. on January 14, 2000, defendant appeared at the door of an acquaintance who lived two blocks from the bar and offered to sell him three cases of Heineken. The investigating officer went to defendant's home and observed an empty Heineken case near defendant's garage. The case appeared weathered. The jury found defendant guilty as charged.

When reviewing a sufficiency of the evidence question, we view the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could conclude that the elements of the offense were proven beyond a reasonable doubt. We do not interfere with the jury's role of determining the weight of the evidence or the credibility of witnesses. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). A trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

The elements of breaking and entering with intent to commit larceny are: (1) the defendant broke into a building; (2) the defendant entered the building; and (3) at the time of the breaking and entering, the defendant intended to commit a larceny. MCL 750.110; *People v Toole*, 227 Mich App 656, 658; 576 NW2d 441 (1998).

Defendant argues the evidence was insufficient to support his conviction. He does not dispute that a breaking and entering occurred at the bar, and does not contend the evidence did not support a finding that the perpetrator had the requisite larcenous intent. Rather, he asserts the evidence did not establish that he perpetrated the offense. We disagree and affirm defendant's conviction. Circumstantial evidence and the reasonable inferences drawn therefrom may be sufficient to prove the elements of a crime. *People v Whitehead*, 238 Mich App 1, 14; 604 NW2d 737 (1999). The undisputed evidence showed a break-in occurred at the bar, and three cases of Heineken were stolen. The bar closed at 11:00 p.m. on January 13, 2000. Between three and four hours later defendant appeared two blocks away at the home of an acquaintance with three cases of Heineken. On January 14, 2000 an empty Heineken case was found at defendant's residence. This evidence supported an inference that the cases came from Joe's Bar. *Vaughn*, *supra*.

The possession of stolen property will not sustain a conviction of breaking and entering unless it is accompanied by other facts or circumstances indicating guilt. *People v Hutton*, 50 Mich App 351, 357-358; 213 NW2d 320 (1973). Defendant's possession of stolen property at a point close in time to the break-in and at a place in geographical proximity to the location of the break-in constituted additional facts tending to establish that defendant committed the break-in. *Id*., 359; *People v Moore*, 39 Mich App 329, 332; 197 NW2d 533 (1972). The evidence, viewed in a light most favorable to the prosecution, supported defendant's conviction. *Wolfe*, *supra*; *Whitehead*, *supra*.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Martin M. Doctoroff
/s/ Mark J. Cavanagh